**IN THE UNITED STATES DISTRICT COURT FOR
THE SOUTHERN DISTRICT OF WEST VIRGINIA**

HUNTINGTON DIVISION

RICHARD EDWARDS, JR.,

        Plaintiff,

v.   CIVIL ACTION NO.   3:16-1879

McELLIOTTS TRUCKING, LLC;
DANNY McGOWAN, individually and as
an employee of McElliotts Trucking, LLC and/or
as agent of Cardinal Transport;
CARDINAL TRANSPORT, INC.,

        Defendants.

ORDER

At trial, Plaintiff Richard Edwards, Jr. has orally moved to exclude Defendant Cardinal

Transport Inc.'s Witness Linda Holbrook for Failure to Disclose. This motion is **GRANTED**.

Potential Witness Linda Holbrook is the widow of Ralph Holbrook, a former driver and

employee of Defendant Danny McGowan. Defendant Cardinal Transport Inc. proffers that Linda

Holbrook was present at the scene of the accident and her testimony would corroborate other

Defense witnesses' testimony regarding the lifting of the rods, while rebutting Plaintiff Edwards'

testimony. Defendant Cardinal Transport Inc. asserts that it did not disclose Linda Holbrook during

discovery because it learned of her existence for the first time within the last week.

While the Court does not doubt Defendant's assertion that it first learned of Holbrook's

existence within the last week, the Court must deny the admission of Holbrook. Discovery in this

matter closed on April 4, 2017 (ECF No. 37). To allow the introduction of this new witness on such

short notice after thorough discovery was conducted and completed over one year ago would be

unfairly prejudicial to Plaintiff. This decision to exclude a witness to enforce the pretrial order and

discovery deadline is within this Court's direction. *See Adalman v. Baker, Watts & Co.*, 807 F.2d 359, 369 (4th Cir. 1986) ("A trial court's discretion to exclude evidence on the ground that it is outside the scope of its pre-trial order is broad . . . .").

The Court **DIRECTS** the Clerk to send a copy of this Order to counsel of record and any unrepresented parties.

ENTER: August 10, 2018

ROBERT C. CHAMBERS
UNITED STATES DISTRICT JUDGE